

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

THERESA WATTS,
Plaintiff,

Case No. 1:03-cv-00589
Litkovitz, M.J.

vs.

UNITED PARCEL SERVICE,
Defendant.

ORDER

This matter is before the Court upon plaintiff Theresa Watts's motion *in limine* as to evidence related to her request for an accommodation under the Americans with Disabilities Act (ADA) (Doc. 270), and a memorandum in opposition filed by defendant United Parcel Service (UPS) (Doc. 272). Plaintiff Watts seeks a ruling in advance of trial that exhibits and testimony related to her request for an accommodation under the ADA be excluded on the ground that the probative value of such evidence is substantially outweighed by the danger of jury confusion.

The Court agrees with Magistrate Judge Merz's finding made prior to the 2011 trial of this matter that evidence pertaining to plaintiff's request for an accommodation under the ADA is probative of Andy Germann's state of mind. (Doc. 223, PageID 3321). Moreover, plaintiff's failure to object to the admission of such evidence at the 2011 trial undercuts plaintiff's argument that the probative value of such evidence is substantially outweighed by the danger of jury confusion. (See Doc. 231, Page ID 3480-3484; Doc. 243, PageID 3692, 3712-3713).

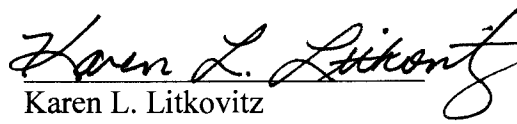
Accordingly, the Court will abide by Magistrate Judge Merz's prior ruling and will deny the motion *in limine*. See *Scott v. Churchill*, 377 F.3d 565, 569-70 (6th Cir. 2004) (the law of the case doctrine provides that "when a court decides upon a rule of law, that decision should

continue to govern the same issues in subsequent stages in the same case”) (quoting *Arizona v. California*, 460 U.S. 605, 618 (1983)). Defendant UPS may refer to such evidence in its opening statement, but defendant may not display to the jury any exhibit pertaining to plaintiff’s request for an accommodation under the ADA upon which the parties have not agreed until a foundation for the exhibit has been laid and the exhibit has been admitted into evidence.

For these reasons, plaintiff’s motion *in limine* (Doc. 270) is DENIED.

IT IS SO ORDERED.

Date: 9/9/13


Karen L. Litkovitz
United States Magistrate Judge